

PT 02-44

Tax Type: Property Tax

Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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NEW HOPE CHURCH OF GOREVILLE	)		
Applicant	)	A.H. Docket #	01-PT-0003
	)	Docket #	99-44-50
v.	)		
	)	Parcel Index #	01-17-307-000
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS and the	)		
SUPERVISOR OF ASSESSMENTS	)	Barbara S. Rowe	
OF JOHNSON COUNTY	)	Administrative Law Judge	

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. Brian Trambly, State's Attorney of Johnson County for the Supervisor of Assessments of Johnson County.

**Synopsis:**

The hearing in this matter was held to determine whether Johnson County Parcel Index No. 01-17-307-000 qualified for exemption during the 1999 assessment year.

Pastor Albert Jenkins of the New Hope Church of Goreville, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant. Ms. Karen Brumley, Chief Deputy of the Johnson County Supervisor of Assessments; Ms. Patricia Craig, Field Assessor for the Johnson County Supervisor of Assessments; Mr. Frank Cool, investigator for the Johnson County State's Attorney; and Ms. Danielle Mott, Supervisor of Assessments of Johnson County were present and testified on behalf of Johnson County.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1999 assessment year; secondly, whether the applicant is a religious and/or charitable

organization; and lastly, whether the parcel was used by the applicant for exempt purposes during the 1999 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be denied. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that a part of Johnson County Parcel Index No. 01-17-307-000 qualified in part for a property tax exemption for the 1999 assessment year was established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 9)

2. On or about April 6, 2000, the Department received the religious application for Johnson County Parcel Index No. 01-17-307-000. The Board of Review of Johnson County had recommended granting a full year exemption for the 1999 assessment year. (Dept. Ex. No. 1; Tr. pp. 48-49)

3. On November 30, 2000, the Department granted in part and denied in part the requested exemption finding that “the parcel is exempt except the 4 trailers, the 9 x 7 booth, the animal house and the land on which they stand is taxable. (Property not in exempt use.)” (Dept. Ex. No. 1)

4. On December 19, 2000, the Supervisor of Assessments for Johnson County timely requested a formal hearing in the matter. The request stated:

Two employees of Johnson County Assessor’s Office physically examined the property in question on November 13, 2000.

They were surprised at the condition of the subject property. They took several pictures inside of the buildings, which show that the buildings do not appear to have had any activity in a while. (Dept. Ex. No. 1)

5. The hearing on June 28, 2001 was held pursuant to that request. (Dept. Ex. No. 1)

6. A “Corporation Contract for Deed” was recorded in Johnson County on April 5,

1994, stating that Albert and Louise Jenkins sell by contract for deed in escrow to the New Hope Church, Inc. a part of the Southwest Quarter of the Southwest Quarter of Section 17, Township 11 South, Range 2 East. The applicant was current with the payments for the contract in 1999. An "Agreement for sale of real estate by warranty deed with deed in escrow" was also submitted for the same property. The agreement references a quit claim deed placed in escrow. The agreement also has sections that do not correspond with each other. It is unclear what legal title will be conveyed at the completion of the payments. The contract is for 50 years. (Dept. Ex. No. 1; Tr. pp. 90-95)

7. The subject property encompasses 15 acres and is known as the New Hope Ranch. There are eight buildings and/or trailers on the subject parcel plus an additional animal house and information booth. (Dept. Ex. No. 1)

8. Building No. 1 is a handicap accessible two story building of over 6,500 square feet. The second floor contains a chapel which has seating for 120 people. The first floor houses the equipment garage, workshop and other workrooms. There are four bathrooms and a laundry in the building as well. (Dept. Ex. No. 1)

9. The second building is a one-story building with a basement. The basement contains donated supplies and material including clothing and furniture. (Dept. Ex. No. 1)

10. The third building is a house trailer used as Reverend Jenkins' residence three weeks a month. The church office is also located in the trailer. (Dept. Ex. No. 1)

11. Building four was designated for use as a dry hole toilet but did not meet state specifications. It was not used in 1999. (Dept. Ex. No. 1)

12. Buildings five through eight are trailers. (Dept. Ex. No. 1)

13. Pastor Jenkins of the applicant is an ordained minister with the Church of the Gospel Ministries of California. He formerly worked in construction. The New Hope Church is not affiliated with any denomination. (Tr. pp. 76, 80-82)

14. I take administrative notice of the fact that the Department granted the applicant a property tax exemption for the chapel area of building No. 1 and a proportionate amount of land

for 80% of the 1994 assessment year pursuant to Docket No. 94-44-4. The Department issued the decision on February 10, 1999.

15. Once the exemption percentage was determined for 1994, the supervisor of assessments of Johnson County issued the applicant a tax bill for 1994 through 2000 in the amount of \$509,965.00. The applicant objected to that assessment because of the condition of the buildings. (Tr. pp. 37-52)

16. On November 13, 2000, employees of the Johnson County Supervisor of Assessment's Office visited the subject parcel and took pictures of it pursuant to the objection of the tax bill amount. Pastor Jenkins gave the employees a tour of buildings one and two. The employees found no other individuals on the property and the buildings in disrepair. Building No. 1 was locked with a padlock that had to be opened. (Assessor's Ex. No. 1, 2; Tr. pp. 10-31, 35, 38-41, 50-53)

17. Building No. 1 contains the chapel on the second floor. At the time of the assessor's tour, cobwebs and dust covered the pews and offering plate. The first floor equipment and materials room, donations area, and plumbing room appeared to be cluttered and unused. A tractor is stored in the first floor area. The kitchen is missing cabinet fronts and pipes are exposed. (Assessor's Ex. No.1; Applicant's Ex. Nos. 1, 2; Tr. pp. 12, 15-16, 19-22, 26, 78-79)

18. The majority of the interior structure of Building No. 2 is composed of two by four boards without dry wall. Insulation is coming out of the ceiling due to a rotting roof and a flying squirrel inhabits the building. Clothes are all over the floor and the building smells of must and mildew. (Assessor's Ex. No. 2; Applicant's Ex. No. 1; Tr. pp. 14-15, 26-27)

19. The supervisor and assistant supervisor of assessments made a second trip to investigate the use of the subject property on December 20, 2000. It had recently snowed and there were no signs of footprints or activity on the property. Pastor Jenkins told the supervisor he would be leaving on the 19<sup>th</sup> of December. Only the outsides of the buildings on the property could be viewed. (Tr. pp. 31-35, 39-40)

20. At the behest of the State's Attorney of Johnson County, an investigator with that office visited the property on May 8, 2001, to ascertain the amount of activity taking place there. The investigator met with Pastor Jenkins, who was the only person seen on the property. Jenkins informed him that the property was used as a halfway house or shelter for drug addicts and alcoholics. Jenkins stated that one person was staying there at that time. The investigator saw no signs of activity on the property. (Tr. pp. 58-65)

21. While the applicant offers worship services three Sundays a month in the chapel on the subject property, and has done so since the church opened in 1995, there is nothing in the record that shows attendance at those services. Due to a family illness in June 1999, the applicant curtailed offering its services to indigents. (Dept. Ex. No. 1; Tr. pp. 68-73, 83-84)

22. The applicant accepts donations of used equipment, materials, and other items. (Dept. Ex. No. 1; Tr. pp. 68-70)

23. Prior to the hearing, the applicant, through Reverend Jenkins, was advised that counsel could represent it. Reverend Jenkins declined to do so. (Tr. pp. 44-45)

### **CONCLUSIONS OF LAW:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

This matter concerns an application for a property tax exemption for Johnson County Parcel Index Number 01-17-307-000 filed by the applicant for the 1999 assessment year. On December 3, 1999, the Board of Review of Johnson County recommended that a full year exemption be granted for 1999. The application was forwarded to the Department. On November 30, 2000, the Department issued its recommendation pursuant to Docket No. 99-44-50 finding that PIN 01-17-307-000 qualified for exemption for 1999 except for the 4 trailers, the 9 x 7 information booth, the animal house, and the land upon which they stand.

The applicant had also requested a property tax exemption for the subject parcel for the 1994 assessment year. After a hearing on that application, the Department issued its recommendation and decision on February 10, 1999, granting a partial exemption for the chapel and a proportionate amount of the land for 80% of the 1994 assessment year.

After receiving the recommendation and decision for 1994, the Johnson County Supervisor of Assessments issued a tax bill to the applicant for the remainder of the property for assessment years 1994 through 2000. The applicant objected to the amount of that bill and requested a reassessment due to the condition of those buildings. Employees of the Johnson County Assessor's office viewed the buildings and determined that no activities were taking place on the property and that the buildings on the subject property were in a dilapidated condition. This was coincidentally done within the time period available for objecting to the determination issued by the Department for the 1999 assessment year granting in part the requested exemption. The supervisor of assessments timely appealed the Department's decision.

The evidence establishes that at the most one person used the subject parcel during the 1999 assessment year. There was no indication of activity when the employees of the supervisor of assessment's office visited the property in 2000 and the dust and cobwebs suggest a lack of activity for an extended period of time. There was also no indication of religious activity when the inspector for the State's Attorney's Office of Johnson County visited the property in 2001. Although the applicant intends to use the property for rehabilitation of indigents, recovering alcoholics, and recovering drug addicts there has been no evidence submitted by the applicant that significant religious or charitable work was done on the subject property in 1999. In fact, the applicant offered no evidence of charitable ownership or use of the property in 1999. In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that property was intended to be used for an exempt purpose was not sufficient to exempt said property. The court required that the actual primary exempt use must have begun for the property to be exempt.

The Illinois Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1<sup>st</sup> Dist. 1983). I find that the applicant herein has failed to establish that the subject property was used for religious purposes in 1999. I find that the property was vacant and badly in need of repair for the majority of the 1999 assessment year. The Illinois Supreme Court in Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59 (1971) stated that it is the primary use of property, rather than any incidental use, that determines whether a parcel will be granted a property tax exemption.

Based upon the foregoing, it is recommended that Johnson County Parcel Index Number 01-17-307-000 remain on the tax rolls for 1999 and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Date: July 8, 2002

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Barbara S. Rowe  
Administrative Law Judge